

REMARKS

Claims 1-14 are now pending in this application for which applicant seeks reconsideration.

Amendment

Claims 1, 3, 6, and 9 have been amended to explicitly recite seeking a permission from the server each time a copy is to be made based on the examiner's comment that applicant's previous arguments were not commensurate with the claimed invention. Moreover, the claims now clearly refer to --a copy request--. No new matter has been introduced.

§ 112 Rejection & Specification Objection

The examiner objected to the specification because he believes that the specification does not provide proper antecedent basis for "to another information processing terminal logged in by the same user" as recited in claim 3. The examiner also rejected claim 3 under 35 U.S.C. § 112, first paragraph, because he alleges that the specification does not provide support for the amendment.

Applicant traverses the § 112 rejection and the specification objection because (1) there is no requirement anywhere in Rule 75(d)(1) that the claim language follow the exact language appearing in the specification, and (2) claim 3 is an original claim. The claim language merely needs to be supported so that the meaning of the terms in the claims may be ascertainable by reference to the description and the drawings. Each of the original claims is part of the original disclosure.

Based on the examiner rejection/objection, it is not clear exactly what aspect of claim 3 is problematic. Is it the language "logged in"? If so, since this language has been revised back to the original language --belonging to--, the present amendment obviates the rejection/objection. The undersigned will contact the examiner to seek clarification in due course.

Art Rejection

All pending claims 1-14 now stand rejected under 35 U.S.C. § 102(b) as anticipated by Nozaki (USPGP 2002/0036800). In maintaining the same rejection, the examiner alleges that applicant's arguments are not commensurate in scope with the pending claims. Specifically, the examiner asserts that independent claims 1, 6, and 9 do not explicitly recite "seeking a permission from the server each time a copy is to be made." This language now has been

explicitly included in these independent claims. In this respect, applicant renews the previous arguments.

In maintaining the rejection, the examiner asserts that Nozaki's paragraphs 62, 63, and 105-107 disclose the claimed copy permission controlling aspects. Applicant disagrees because these paragraphs merely refer to how the PC obtains a reproduction-use information key that provides the copy limitation data.

As applicant explained in the previous reply, once the PC obtains the key in Nozaki, the PC rewrites the copy control data each time the music data is copied, **without** seeking any permission from the server when the available copy count is not exceeded, as disclosed in Fig. 5, paragraph 80, Figs. 4 and 10, paragraphs 140-143. Nozaki simply does not seek any permission from the server before each time a copy is to be made to any external apparatus or recording medium. At least in this respect, the pending claims clearly distinguish over Nozaki.

#### Conclusion

Applicant submits that claims 1-14 patentably distinguish over the applied reference and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

ROSSI, KIMMS & McDOWELL LLP

24 JANUARY 2009

DATE

/Lyle Kimms/

LYLE KIMMS, REG. NO. 34,079

20609 GORDON PARK SQUARE, SUITE 150  
ASHBURN, VA 20147  
703-726-6020 (PHONE)  
703-726-6024 (FAX)